



MAILED: 28 FEB 2003

Warren M. Cheek, Jr.
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2033 K Street NW
WASHINGTON DC 20006Re: Patent Term Extension
Application for
U.S. Patent No. 4,687,777

NOTICE OF FINAL DETERMINATION

A determination has been made that U.S. Patent No. 4,687,777, which claims the human drug product ACTOS (proglitazone hydrochloride), is eligible for patent term extension under 35 U.S.C. § 156. The period of extension has been determined to be 5 years.

A single request for reconsideration of this final determination as to the length of extension of the term of the patent may be made if filed within one month of the date of this notice. Extensions of time under 37 CFR § 1.136(a) are not applicable to this time period. In the absence of such request for reconsideration, the Director will issue a certificate of extension, under seal, for a period of 5 years.

The period of extension has been calculated using the Food and Drug Administration determination of the length of the regulatory review period published in the Federal Register of May 15, 2002 (67 Fed. Reg. 34721). Under 35 U.S.C. § 156(c):

$$\begin{aligned}\text{Period of Extension} &= \frac{1}{2} (\text{Testing Phase}) + \text{Approval Phase} \\ &= \frac{1}{2} (3,374) + 182 \\ &= 1,869 \text{ days (5.1 years)}\end{aligned}$$

Since the regulatory review period began October 21, 1989, after the patent issue date (August 18, 1987), the entire period has been considered in the above determination. No determination of a lack of due diligence under 35 U.S.C. § 156(c)(1) was made.

The five year limitation of 35 U.S.C. § 156(g)(6)(A) applies in the present situation, however, because the patent was issued after the date of enactment (September 24, 1984) of 35 U.S.C. § 156. Since the period of extension calculated under 35 U.S.C. § 156(c) for the patent cannot exceed five years under 35 U.S.C. § 156(g)(6)(A), the period of extension will be for five years.

The 14 year limitation of 35 U.S.C. § 156(c)(3) does not operate to further reduce the period of extension determined above.

Upon issuance of the certificate of extension, the following information will be published in the Official Gazette:

U.S. Patent No.:	4,687,777
Granted:	August 18, 1987
Original Expiration Date ¹ :	January 17, 2006
Applicant:	Kanji Meguro, et al.
Owner of Record:	TAKEDA CHEMICAL INDUSTRIES LTD.
Title:	Thiazolidinedione Derivatives, Useful as Antidiabetic Agents
Classification:	514/342

¹Subject to the provisions of 35 U.S.C. § 41(b).

Product Trade Name: ACTOS (proglitazone hydrochloride)
Term Extended: 5 years
Expiration Date of Extension: January 17, 2011

Any correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents By FAX: (703) 872-9411
 Box Patent Ext. Attn: Office of Patent Legal Administration
 Washington, D.C. 20231

Telephone inquiries related to this determination should be directed to the undersigned at (703) 306-3159.

/s/

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

cc: David T. Read RE: ACTOS (proglitazone hydrochloride)
Acting Director Health Assessment Policy Staff, CDER FDA Docket No.: 00E-1345
Food and Drug Administration
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